

## REMARKS

Claims 44-47, 49, 51-53 and 63-71 are pending in the application. Claims 52 and 69 have been amended. Claims 1-43, 48, 50 and 54-62 have previously been canceled. Reconsideration of this application is respectfully requested.

Applicants appreciate the Examiner discussing this application with Applicants' attorney on February 6, 2007. During the course of the interview, Applicants' attorney presented new arguments regarding independent claim 44 and dependent claims 52 and 69. The Examiner without comment stated that he understood the arguments with respect to independent claim 44 and that claims 52 and 69 would avoid the prior art of record if amended to include the language of independent claims 44 and 63, respectively. Claims 52 and 69 have been so amended. Therefore, it is submitted that amended claims 52 and 69 are now in condition to be allowed.

The Office Action rejects claims 44-47, 51-53 and 63-71 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,825,360 to Odam et al, hereinafter "Odam", in view of U.S Patent No. 5,561,753 to Coulombe et al., hereafter Coulombe.

It is respectfully submitted that the rejection of claims 52 and 69 is obviated by the amendment as discussed above.

Applicants' independent claims 44, 63 and 71 recite a method for automatic control of window overlap on a graphical user interface by determining priorities of the windows. Independent claim 44 recites:

"wherein said window priority is derived from a topic of each window of said plurality of windows and said topic of said window is determined by a frequency of occurrence of at least one keyword in said window", and

"wherein said priority of said window is assigned based on a priority of said topic, and said priority of said topic is determined based on a number of times a window having said topic is accessed".

In the Office Action, the Examiner contends that "Odam inherently teaches wherein said window priority is derived from a topic of each window of a plurality of windows". The Examiner bases this contention on Odam's Fig. 12 showing of a logical overlap in which a critical area of a window is excluded from any overlap. This teaching has nothing to do with a priority of a window. It merely protects a critical area of a window from being occluded by an overlap. Therefore, the Examiner's contention is without merit.

The Examiner further contends that Odam teaches that the critical area "could be an ID, name, title, topic, etc. of the displayed window". There is no teaching of this in column 16, which describes Fig. 12. Odam determines priority of a window "according to a predetermined criteria, e.g., the relative time of each window's creation, a user's particular preference, the relative importance of each window and the like" (column 7, lines 7-10). There is no teaching of a topic. Therefore, the Examiner's contention is without merit.

The Examiner admits that "Odam still does not teach the topic of the window is determined by a frequency of occurrence of at least one keyword in the window, and the priority of the topic is determined based on a number of times a window having the topic is accessed". The Examiner contends that Coulombe supplies this deficiency, citing the Abstract and column 2, lines 32-45. This contention is without merit as discussed below.

Coulombe's Abstract and column 2, lines 32-45 broadly refer to "a predetermined frequency of access criterion, duration of access criterion or other similar priority determination". Coulombe applies this criterion to relocation of

graphical icons on a display screen. At column 5, lines 1-5, in the context of relocating an icon, Coulombe states that the relocation criterion is 'based upon frequency of access' of the icon. There is mention of a "topic" of an icon or that a "topic is determined by a frequency of occurrence of at least one keyword in said window" as recited in independent claim 44. Coulombe applies the relocation criterion to an icon relocation, but not to a determination of a topic based on a frequency of occurrence of a keyword in a window. Therefore, the Examiner's contention is without merit.

The arguments set forth above also apply to independent claim 71, which recites similar language in the wherein clauses.

For the reasons set forth above, independent claims 44 and 71 are unobvious over the Odam and Coulombe combination.

Independent claim 63 recites:

"automatically determining a priority of each window of a plurality of overlapping windows displayed on a graphical user interface, wherein said priority is derived from an amount of time during which scrolling is performed on a window, wherein said scrolling includes dragging contents of a window to reveal additional contents".

The Examiner contends that Coulombe "teaches that the user can interact with viewing applications by moving/dragging/dropping or scrolling 9scroll bar 78 of Fig. 3)". The Examiner concludes that the Odam and Coulombe combination "inherently teaches this feature". The Examiner's contention and conclusion are without merit.

Neither Odam nor Coulombe teaches the above quoted recitation of independent claim 63. Odam completely lacks any mention of priority being

"derived from an amount of time during which scrolling is performed on a window, wherein said scrolling includes dragging contents of a window to reveal additional contents". The Examiner contends that Coulombe "teaches that the user can interact with viewing applications by moving/dragging/dropping or scrolling (scroll bar 78 of Fig. 3)". The Examiner then concludes that it would have been obvious to modify Odam's window priority criterion "for bringing the most working/using window upfront to ease the user when working with multiple opened windows". The Examiner's contention and conclusion are without merit.

Neither Odam nor Coulombe teach a determination of window priority based on "an amount of time during which scrolling is performed on a window" as claimed in independent claim 63. As noted above, Odam determines priority of a window "according to a predetermined criteria, e.g., the relative time of each window's creation, a user's particular preference, the relative importance of each window and the like" (column 7, lines 7-10). There is no mention of scrolling or an amount of time during which scrolling is performed. Coulombe mentions that document icon 76 can be viewed within work area 60 if a user uses scrolling to scroll "work area 60 in a downward direction utilizing scroll box 78 or scroll button 80 within scroll bar 82". There is no mention of using an amount of time during which scrolling takes place to determine priority of a window or an icon. Thus, the combination of Odam and Coulombe does not determine priority of a window by an amount of time during which the window is scrolled. Therefore, the Examiner's contention and conclusion of obviousness is without merit.

The rejection also lacks motivation. The Office Action suggestion to use Odam in combination with Coulombe is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the

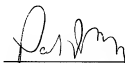
inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reasons set forth above, it is submitted that the rejection of claims 52 and 69 under 35 U.S.C. 103(a) is obviated by the amendment, that the rejection of claims 44-47, 49, 51, 53, 63-68, 70 and 71 under 35 U.S.C. 103(a) is erroneous and that the rejections should be withdrawn.

It is respectfully requested for the reasons set forth above that the rejection under 35 U.S.C. 103(a) be withdrawn, that claims 44-47, 49, 51-53 and 63-71 be allowed and that this application be passed to issue.

Respectfully Submitted,

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